EXHIBIT 173

July 30, 2007

Chicago, IL

Page 1 IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS ----X IN RE: PHARMACEUTICAL) INDUSTRY AVERAGE WHOLESALE)) MDL No. 1456 PRICE LITIGATION -----) Civil Action This document relates to:) No. 01-12257-PBS United States of America,) ex. rel. Ven-a-Care of the) Florida Keys, Inc.,) Hon. Patti Saris vs. Abbott Laboratories, Inc.,) Magistrate Judge CIVIL ACTION NO. 06-11337-PBS) Marianne Bowler VIDEOTAPED DEPOSITION OF JAMES E. MILLER CHICAGO, IL JULY 30, 2007

Henderson Legal Services 202-220-4158

July 30, 2007

Chicago, IL

	Page 2		Page 4
1		1	
1 2	Vidagtaned denocition of IAMES E MILLED	1	APPEARANCES: (CONTINUED)
3	Videotaped deposition of JAMES E. MILLER, called by the Plaintiffs for examination, taken	3	BERGER & MONTAGUE, P.C.
4	pursuant to notice, agreement and by the provisions of	4	BY: SUSAN SCHNEIDER THOMAS, ESQ.
5	the Rules of Civil Procedure for the United States	5	1622 Locust Street
6	District Courts pertaining to the taking of	6	Philadelphia, Pennsylvania 19103
7	depositions, taken before DEBORAH HABIAN, a Notary		(215) 875-3000
8	Public within and for the County of Cook, State of	8	on behalf of the Realtor, Ven-a-Care;
9	Illinois, and a Certified Shorthand Reporter of said	9	,
10	State, at the offices of Katten Muchin Rosenman,	10	
11	525 West Monroe Street, 19th Floor, Chicago, Illinois,	11	WEXLER TORISEVA WALLACE, LLP
12	on the 30th day of July, 2007, at 9:12 a.m.	12	BY: CHRISTOPHER J. STUART, ESQ.
13		13	55 West Monroe Street
14		14	Suite 300
15		15	Chicago, Illinois 60602
16		16	(312) 346-2222
17		17	on behalf of the State of Arizona
18		18	and the MDL Plaintiffs;
19		19	
20 21		20 21	
22		22	(CONTINUED)
	Page 3	22	Page 5
1	APPEARANCES:	1	APPEARANCES: (CONTINUED)
2	STATE OF CALIFORNIA DEPARTMENT OF JUSTICE	2	JONES DAY
4	BUREAU OF MEDI-CAL FRAUD & ELDER ABUSE	3 4	BY: TINA M. TABACCHI, ESQ.
5	BY: ELISEO SISNEROS, ESQ.	5	77 West Wacker Drive
6	DEPUTY ATTORNEY GENERAL	6	Chicago, Illinois 60601-1692
7	110 West A Street	7	(312) 782-3939
8	No. 1100	8	on behalf of the Defendants;
9	San Diego, California 92101	9	,
10	(619) 688-6043	10	KATTEN MUCHIN ROSENMANN, LLP
11	on behalf of the State of California;	11	BY: GIL M. SOFFER, ESQ.
12		12	DEAN V. HOFFMAN, ESQ.
13	U.S. DEPARTMENT OF JUSTICE	13	525 West Monroe Street
14	COMMERCIAL LITIGATION, FRAUD	14	Chicago, Illinois 60661-3693
15	BY: REBECCA A. FORD, ESQ.	15	(312) 902-5200
16	601 D Street, N.W.	16	on behalf of the deponent.
17	Patrick Henry Building - 9133	17	
18 19	Washington, D.C. 20044	18	ALCO DDECENT.
20	(202) 514-1511 on behalf of the United States;	19 20	ANTHONY MICHELETTO, VIDEOGRAPHER
21	on behan of the office States,	21	ANTHONY MICHELETTO, VIDEOGRAPHER HENDERSON LEGAL SERVICES
22	(CONTINUED)	22	HENDERSON LEGAL SERVICES
ــــــــــــــــــــــــــــــــــــــ	(COLLIE (CED)	~~	

2 (Pages 2 to 5)

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	Page 6		Page 8
1	INDEX	1	PROCEEDINGS
2		2	11002221100
3	WITNESS: JAMES E. MILLER PAGE	3	THE VIDEOGRAPHER: This is Anthony
4	EXAMINATION BY ELISEO SISNEROS, ESQ 010	4	Micheletto of Henderson Legal Services. I am the
5	EXAMINATION BY REBECCA A. FORD, ESQ 224	5	operator of this camera.
6	EXAMINATION BY SUSAN SCHNEIDER THOMAS 311	6	This is the videotaped deposition of
7		7	James Miller as being taken pursuant to Federal
8	EXHIBITS	8	Rules of Civil Procedure on behalf of the
9	NUMBER DESCRIPTION PAGE	9	Plaintiffs.
10	Exhibit Miller 1160, curriculum vitae 012	10	We are on the record on July 30th,
11	Exhibit Miller 1161, subpoena duces tecum 046	11	2007. The time is 9:12, as indicated on the
12	Exhibit Miller 1162, Abbott MWG lists 052	12	video screen. We are located at 525 West Monroe
13	Exhibit Miller 1163, ABT 52840 to 52842,	13	Street, Chicago Illinois.
14	ABT 52898 to 52899 069	14	This case is captioned In Re:
15	Exhibit Miller 1164, ABT 52705 to 52707,	15	Pharmaceutical Industry Average Wholesale Price
16	ABT 52710 to 52712,	16	Litigation, Case No. 0112257-PBS.
17	ABT 52808 to 52811,	17	Will the attorneys please identify
18	ABT 52836 to 52838 094	18	themselves for the video record?
19	Exhibit Miller 1165, handwritten notes 099	19	MR. SISNEROS: Eliseo Sisneros, Deputy
20	Exhibit Miller 1166, ABT 52901 to 52903 193	20	Attorney General for the State of California.
21	Exhibit Miller 1167, ABT 53315 to 53318 196	21	MS. THOMAS: Susan Schneider Thomas
22	Exhibit Miller 1168, ABT 53161 to 53169 202	22	representing Ven-a-Care.
	Page 7		Page 9
1	EXHIBITS (CONTINUED)	1	MR. STUART: Christopher Stuart, Wexler
2	NUMBER DESCRIPTION PAGE	2	Toriseva Wallace representing the State of
3	Exhibit Miller 1169, 11/26/96 memoranda 216	3	Arizona and the MDL Plaintiffs.
4	Exhibit Miller 1170, ABT 53140 to ABT 53142 264	4	MS. TABACCHI: Tina Tabacchi from Jones
5	Exhibit Miller 1171 ABT 53217 to ABT 53238 266	5	Day on behalf of the Defendants.
6		6	MR. SOFFER: Gil Soffer of Katten
7		7	Muchin Rosenman on behalf of the deponent James
8		8	Miller.
9		9	THE WITNESS: James Miller.
10		10	THE VIDEOGRAPHER: The court the
11		11	court reporter is Deborah Habian from Henderson
12		12	Legal Services.
13		13	Please swear in the witness.
14		14	THE REPORTER: Please raise your right
15		15	hand, Mr. Miller.
16		16	(Witness sworn.)
17		17	THE REPORTER: Thanks.
18		18	MS. TABACCHI: Before we begin, I just
19		19	need to interject my standard objection to the
20 21		20	notice of the Class Plaintiffs as untimely.
21		21	MR. SISNERO: Morning, Mr. Miller.
		22	THE WITNESS: Morning.

3 (Pages 6 to 9)

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13 A. December 1968. 14 Q. When did you start working for Ford? 15 A. January of 1969. 16 Q. So you went over to Ross sometime in 17 the fall of '69? 18 A. Yes, sir. 19 Q. And you remained at Ross until you 20 started at Abbott? 21 A. No, MBA program. I went full-time to 22 the MBA program at Wright State University. Page 15 Q. Alsee. So you worked for Ross from '69 2 until? 3 A. '70. 4 Q. What did you do for Ross? 5 A. I was a Financial Analyst in the 6 Distribution Department. 7 Q. What were your duties? 8 A. I worked on determining the optimum 9 location for distribution points and negotiating with carriers' freight rates. 11 Q. So your focus was to save the company money? 13 A. Yes, sir. 14 Q. All right, after that, then you went to school at Wright State in Dayton to get your 15 A. Yes. 16 A. Yes. 17 A. Yes. 18 Q. And thereafter, is well, when did 19 A. North Chicago. 10 Work at National Cash Register while I was 14 finishing my master's in Dayton, ohio. 14 In Joyaton, Ohio. 15 Q. How long did you work for NCR? A. I worked for them until December '72 when I went to work for Abbott. 16 A. I was a Financial Analyst 20 Q. Any specific duties? 21 A in the factory. Again, I focused on 22 budgeting and cost reductions. 22 budgeting and cost reductions. 24 Q. Okay. All right, thereafter, you went 25 to Abbott? 26 Q. All right, Let's talk a little bit 27 about your career at Abbott. You have there fron 28 in your CV Exhibit Miller 1160 a list of 29 positions you held from 1972 to 2003. You see 20 that? 21 A. Yes. 22 Q. So when you started it at Abbott, 23 Yes. 24 A. Yes. 25 A. Troncet. 26 A. Yes. 27 A. Correct. 28 A. Correct. 29 A. Yes. 20 Correct? 30 A. Correct. 40 Q. All right, Let's talk a little bit 41 About your career at Abbott. You have there fron 42 A. Yes. 43 A. Correct. 44 Q. What did you do for Ross? 45 A. Correct. 46 Q. All right and complete list of all the positions that you held at Abbott during this 47 A. Yes. 48 A. Yes. 49 C. Orect? 40 Q. What did you do for Ross? 40 Q. So when yo		Page 14		Page 16
2 right out of college? 2 A. Yeah.	1	Q. When you worked for Ross Labs, was that	1	Q. Oh, I'm sorry. That's right there.
4 for Ford Motor Company in Claycomo, Missouri. Q. How long did you work for Ford? A. About nine months. Q. And what did you do for them? A. I was a Production Foreman. Q. After Ford, you went to Ross? A. Yes, sir. Q. And well, let me ask this. When did you graduate from Wilmington? A. December 1968. A. January of 1969. Q. So you went over to Ross sometime in the fall of '69? A. Ayes, sir. Q. And you graduate at Ross until you started at Abbott? A. Ayes, sir. Q. And you graduate for Milmington? A. January of 1969. Q. So you went over to Ross sometime in the fall of '69? A. Ayes, sir. Q. And you gramant at Wright State University. Page 15 Q. I see. So you worked for Ross from '69 until? Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. I was a Financial Analyst in the Distribution Department. Q. What did you do for Ross? A. Q. So your focus was to save the company of the factory. Again, I focused on the factory. Again, I focused on the factory. Again, I focused on th	2		2	•
5 Q. How long did you work for Ford? 6 A. About mine months. 7 Q. And what did you do for them? 8 A. I was a Production Foreman. 9 Q. After Ford, you went to Ross? 10 A. Yes, sir. 11 Q. And well, let me ask this. When did 12 you graduate from Wilmington? 13 A. December 1968. 14 Q. When did you start working for Ford? 15 A. January of 1969. 16 Q. So you went over to Ross sometime in the fall of '69? 17 the fall of '69? 18 A. Yes, sir. 19 Q. And you remained at Ross until you 20 started at Abbott? 20 taxted at Abbott? 21 A. No, MBA program. I went full-time to 21 to the MBA program at Wright State University. 22 taxted at Abbott? 3 A. 70. 4 Q. What did you do for Ross? 4 I. Was a Financial Analyst in the Distribution Department. 6 Distribution Department. 7 Q. What did you do for Ross? 8 A. I was a Financial Analyst in the Distribution points and negotiating with carriers' freight rates. 9 Q. And thereafter, is well, when did 5 what month in '71? 6 A. I do not remember. 9 Q. What did you do next? 1 A. No. 11 A. When I was getting my master's, I also was approached by National Cash Register and we to work at National Cash Register while I was town at National Cash Register and we town at National Cash Register and we town at National Cash Regis	3	-	3	Q. Then what did you do between well,
6 A. About nine months. 7 Q. And what did you do for them? 8 A. I was a Production Foreman. 9 Q. After Ford, you went to Ross? 10 Q. And well, let me ask this. When did 11 you graduate from Wilmington? 12 you graduate from Wilmington? 13 A. December 1968. 14 Q. When did you start working for Ford? 15 A. January of 1969. 16 Q. So you went over to Ross sometime in the fall of '69? 18 A. Yes, sir. 19 Q. And you remained at Ross until you start working for Ford? 10 Say and you remained at Ross until you the MBA program. I went full-time to the MBA program at Wright State University. 10 Q. I see. So you worked for Ross from '69 until? 11 Q. I see. So you worked for Ross from '69 until? 12 What did you do for Ross? 13 A. '70. 14 Q. What did you do for Ross? 15 A. I was a Financial Analyst in the Distribution Department. 16 Distribution Department. 17 Q. What were your duties? 18 A. I worked on determining the optimum location for distribution points and negotiating with carriers' freight rates. 10 Q. So your focus was to save the company money? 11 Q. A. Yes, sir. 12 Q. All right, after that, then you went to school at Wright State in Dayton to get your master's. 18 QIn Corporate Finance? 19 A. Yes. 10 Q. All right, after that, then you went to school at Wright State in Dayton to get your master's. 10 Q. And thereafter, is well, when did 12 wour start work for Dayton to get your master's. 13 A. Yes. 14 Q. What did you do for Ross? 15 A. I worked for them until December '72 16 A. I worked for them until December '72 17 A. Wes. 18 Q. What did you do for NCR? 18 Q. What did you do for NCR? 19 A. I was a Financial Analyst 20 Q. Any specific duties? 21 A. (Witness nodding.) 22 D. A. (Witness nodding.) 23 A. (Witness nodding.) 24 Q. Correct? 25 A. Correct. 26 Q. All right, Let's talk a little bit about your career at Abbott. You have there from in your CV Exhibit Miller 1160 a list of positions you held from 1972 to 2003. You see that? 28 A. Yes. 29 Q. And thereafter, is well, when did 29 A. Yes. 20 Q. And	4	for Ford Motor Company in Claycomo, Missouri.	4	when did you finish your master's, what year
7 Q. And what did you do for them? 8 A. I was a Production Foreman. 9 Q. After Ford, you went to Ross? 9 A. Yes, sir. 10 Q. Did — after completing your master's, 8 did you go directly to Abbott Labs? 9 A. No. 9 A. No. 9 A. No. 10 Q. What did you do next? 11 A. When I was getting my master's, I also was approached by National Cash Register and we to work at National Cash Register and we was approached by National Cash Register and we to work at National Cash Register while I was finishing my master's in Dayton, Ohio. 12 When I went to work for NCR? 16 A. I worked for them until December '72 When I went to work for Abbott. 17 When I went to work for Abbott. 18 A. Yes, sir. 18 Q. Mat did you do for NCR? 19 A. No, MBA program. I went full-time to 21 the MBA program at Wright State University. 19 A. Yos. 10 Q. Okay. All right, thereafter, you went to 22 until? 20 What did you do for Ross? 3 A. '70. 4 Q. What did you do for Ross? 4 I was a Financial Analyst in the 6 Distribution Department. 20 What were your duties? 3 A. '70. 3 A. I was a Financial Analyst in the 6 Distribution Department. 20 What were your duties? 3 A. I was a Financial Analyst in the 6 Distribution Department. 20 Q. Okay. All right, thereafter, you went to 20 with carriers' freight rates. 20 Q. All right, after that, then you went to 21 School at Wright State in Dayton to get your 21 money? 21 A. Yes. 22 A. Yes. 21 A. Yes. 22 A. Yes. 23 Q. So when you started it — at Abbott, worth and in the positions that you held at Abbott during this 24 positions started at a decoration of distribution points and negotiating with carriers' freight rates. 22 A. Yes. 23 Q. So when you started it — at Abbott, you started as a Cost Accounting Manager here in 24 A. Yes. 24 A. Wes. 25 A. North Chicago. 25 A. North Chicago. 26 A. North Chicago. 27 A. North Chicago. 28 A. Yes. 28 A. Wes. 29 A. North Chicago. 29 A. North Chicago. 29 A. North Chicago. 29 A. North Chicago. 29	5	Q. How long did you work for Ford?	5	what month in '71?
8 A. I was a Production Foreman. 9 Q. After Ford, you went to Ross? 10 A. Yes, sir. 11 Q. And well, let me ask this. When did 12 you graduate from Wilmington? 13 A. December 1968. 14 Q. When did you start working for Ford? 15 A. January of 1969. 16 Q. So you went over to Ross sometime in 17 the fall of '69? 18 A. Yes, sir. 19 Q. And you remained at Ross until you 20 started at Abbott? 21 A. No, MBA program. I went full-time to 22 the MBA program at Wright State University. 22 to MBA program at Wright State University. 24 Q. What did you do for Ross? 25 A. I was a Financial Analyst in the 26 Distribution Department. 27 Q. What did you do for Ross? 38 A. I worked on determining the optimum location for distribution points and negotiating with carriers' freight rates. 29 Q. And thereafter, is well, when did 20 Q. And thereafter, is well, when did 21 did you go directly to Abbott? 21 A. No. When I was getting my master's, I also was approached by National Cash Register and we to work at National Cash Register and we to work at National Cash Register and we to work of NoER? 21 A. When I was getting my master's in Dayton, Ohio. 22 What did you do for ROSR? 31 A. Yes, sir. 32 Q. What did you do for ROSR? 33 A. Yos, a. 'I worked for them until December '72 when I went to work for Abbott. 34 A. When I was approached by National Cash Register and we to work at National Cash Register and we to work for NoER? 34 A. Yes, sir. 35 A. When I was approached by National Cash Register and we to work for NoER? 36 A. I worked for Hoss sometime in the full was approached by National Cash Register and we to work for NoER? 36 A. I worked for them until December '72 when I was approached by National Cash Register and we to work for NoER? 36 A. I worked for them until December '72 when I was reprise in Dayton, Ohio. 37 Q. What did you do for NoER? 38 A. To. "A Was a Financial Analyst 20 and particular and p	6	A. About nine months.	6	A. I do not remember.
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10 A. Yes, sir. 11 Q. And well, let me ask this. When did 2 you graduate from Wilmington? 2 A. December 1968. 14 Q. When did you start working for Ford? 15 A. January of 1969. 16 Q. So you went over to Ross sometime in 17 the fall of '69? 18 A. Yes, sir. 19 Q. And you remained at Ross until you 20 started at Abbott? 21 A. No, MBA program I went full-time to 21 the MBA program at Wright State University. 22 the MBA program at Wright State University. 23 A. '70. 4 Q. What did you do for Ross? 4 A. I was a Financial Analyst in the 24 Distribution Department. 25 Distribution Department. 26 Distribution Department. 27 Q. What were your duties? 28 A. I worked on determining the optimum olocation for distribution points and negotiating with carriers' freight rates. 29 Q. And tright, after that, then you went to school at Wright State in Dayton to get your master's 17 A. Yes. 18 Q In Corporate Finance? 19 A. Yes. 20 Q. And thereafter, is well, when did 2 you graduate from Wilmington? 2 to was approached by National Cash Register and we to was a to save thie I was a Financial Cash Register and we to was aptroached by National Cash Register and we to was aptroached by National Cash Register while I was a to work at National Cash Register while I was a to work at National Cash Register while I was a to work at National Cash Register while I was a to work at National Cash Register while I was a to work at National Cash Register while I was a to work at National Cash Register while I was aptroached by National Cash Register and we to work of r About. 15 Q. How long did you do for NCR? 16 A. I worked for them until December '72 when I went to work for Abbott. 18 A. I worked for them until December '72 when I went to work for About. 19 A. I was a Financial Analyst 20 Q. Any specific duties? 21 A in the factory. Again, I focused on budgeting and cost reductions. 22 budgeting and cost reductions. 23 A. (Witness nodding.) 4 Q. Correct? 5 A. Correct. 6 Q. All right. Let's talk a little bit about your	8	A. I was a Production Foreman.	8	
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12 you graduate from Wilmington? 13 A. December 1968. 14 Q. When did you start working for Ford? 15 A. January of 1969. 16 Q. So you went over to Ross sometime in 17 the fall of '69? 18 A. Yes, sir. 19 Q. And you remained at Ross until you 20 started at Abbott? 21 A. No, MBA program. I went full-time to 22 the MBA program at Wright State University. 22 the MBA program at Wright State University. 23 A. '70. 4 Q. What did you do for Ross? 5 A. I was a Financial Analyst in the 6 Distribution Department. 7 Q. What did you do for Ross? 8 A. I was a Financial Analyst in the 6 Distribution Department. 7 Q. What did you do for Ross? 8 A. I was a Financial Analyst in the 6 Distribution Department. 7 Q. What did you do for Ross? 8 A. I was a Financial Analyst in the 6 Distribution Department. 9 Location for distribution points and negotiating with carriers' freight rates. 10 Q. All right, after that, then you went to school at Wright State in Dayton to get your master's 17 A. Yes. 18 Q In Corporate Finance? 19 A. Yes. 20 Q. And thereafter, is well, when did 21 was approached by National Cash Register and we to work at National Cash Register while I was to work at National Cash Register while I was to work at National Cash Register while I was to work at National Cash Register while I was to work at National Cash Register while I was to work at National Cash Register while I was to wo wast net Dayton, Ohio. Q. How long did you work for NCR? A. I worked for them until December '72 A. I was a Financial Analyst Q. Any specific duties? A. I was a Financial Analyst Q. Any specific duties? A. Wes. Take the factory. Again, I focused on 22 budgeting and cost reductions. Page 15 Page 15 Page 15 Q. Okay. All right, thereafter, you went on 3- in proposition you held from 1972 to 2003. You see 4- 4- Q. Correct? A. Correct. Q. All right. Let's talk a little bit 4- and Abbott during this period of time?		A. Yes, sir.	10	
13 A. December 1968. 14 Q. When did you start working for Ford? 15 A. January of 1969. 16 Q. So you went over to Ross sometime in the fall of '69? 17 the fall of '69? 18 A. Yes, sir. 19 Q. And you remained at Ross until you started at Abbott? 20 started at Abbott? 21 A. No, MBA program. I went full-time to 22 the MBA program at Wright State University. Page 15 Q. I see. So you worked for Ross from '69 until? 3 A. '70. 4 Q. What did you do for Ross? 5 A. I was a Financial Analyst in the Distribution Department. 4 Q. What were your duties? 8 A. I worked on determining the optimum olocation for distribution points and negotiating with carriers' freight rates. 11 Q. So your focus was to save the company money? 13 A. Yes, sir. 14 Q. All right, after that, then you went to school at Wright State in Dayton to get your master's 17 A. Yes. 18 Q In Corporate Finance? 20 G. How long did you work for NCR? A. I worked for them until December '72 when I went to work for Abbott. 16 Q. How long did you work for NCR? A. I worked for them until December '72 when I went to work for Abbott. 17 What all you do for NCR? A. I was a Financial Analyst 20 Q. Any specific duties? A in the factory. Again, I focused on budgeting and cost reductions. Page 15 Page 15 Q. Okay. All right, thereafter, you went of A. Correct. Q. All right. Let's talk a little bit about your career at Abbott. You have there from 17 in your CV Exhibit Miller 1160 a list of positions you held from 1972 to 2003. You see that? 18 A. Yes. 19 A. Yes. 10 A. Yes. 11 A. Yes. 12 A. Correct. 13 A. Correct. 14 A. Correct. 15 A. Correct. 16 A. Yes. 17 A. Yes. 18 Q. Is that a full and complete list of all the positions that you held at Abbott during this period of time? 18 A. Yes. 19 A. Yes. 20 Q. And thereafter, is well, when did 21 A. North Chicago. 22 A. North Chicago.		Q. And well, let me ask this. When did		
14 Q. When did you start working for Ford? 15 A. January of 1969. 16 Q. So you went over to Ross sometime in the fall of '69? 17 the fall of '69? 18 A. Yes, sir. 19 Q. And you remained at Ross until you started at Abbott? 20 Started at Abbott? 21 A. No, MBA program. I went full-time to the MBA program at Wright State University. Page 15 Q. I see. So you worked for Ross from '69 until? 3 A. '70. 4 Q. What did you do for Ross? 5 A. I was a Financial Analyst in the Distribution Department. 6 Distribution Department. 7 Q. What were your duties? 8 A. I worked for them until December '72 when I went to work for Abbott. 20 Q. Any specific duties? 21 A in the factory. Again, I focused on budgeting and cost reductions. Page 15 Q. Okay. All right, thereafter, you went to A. (Witness nodding.) 4 Q. Correct? 5 A. Correct. Q. All right. Let's talk a little bit about your career at Abbott. You have there from serving with carriers' freight rates. 10 with carriers' freight rates. 11 Q. So your focus was to save the company money? 12 A. Yes. 13 A. Yes, sir. 14 Q. All right, after that, then you went to school at Wright State in Dayton to get your master's 17 A. Yes. 18 Q. What did you do for NCR? 19 A. I was a Financial Analyst 20 Q. Any specific duties? 21 A in the factory. Again, I focused on budgeting and cost reductions. Page 15 Page 15 Q. Okay. All right, thereafter, you went to about your career at Abbott. You have there from a in your CV Exhibit Miller 1160 a list of positions you held from 1972 to 2003. You see that? 11 A. Correct. 12 A. Yes. 13 A. Yes. 14 finishing my master's in Dayton to when I went to work for Abbott. 24 when I went to work for Abbott. 26 A. I was a Financial Analyst 27 Q. Any specific duties? 28 A. I was a Financial Analyst 29 Q. Any specific duties? 29 A in the factory. Again, I focused on budgeting and cost reductions. Page 15 Q. Occrect? 3 A. (Witness nodding.) 4 Q. Unit right, thereafter, you went of A. (Witness nodding.) 5 A. (Witness nodding.) 6 Q. All right.		• •		was approached by National Cash Register and went
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11 Q. So your focus was to save the company 12 money? 13 A. Yes, sir. 14 Q. All right, after that, then you went to 15 school at Wright State in Dayton to get your 16 master's 17 A. Yes. 18 Q In Corporate Finance? 19 A. Yes. 20 Q. And thereafter, is well, when did 21 A. Correct. 22 A. Yes. 23 Q. Is that a full and complete list of all 24 the positions that you held at Abbott during this 25 period of time? 26 A. Yes. 27 Q. So when you started it at Abbott, 28 you started as a Cost Accounting Manager here in 29 Chicago? 20 A. North Chicago.	9	location for distribution points and negotiating		positions you held from 1972 to 2003. You see
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16master's16A. Yes.17A. Yes.17Q. So when you started it at Abbott,18Q In Corporate Finance?18you started as a Cost Accounting Manager here in19A. Yes.19Chicago?20Q. And thereafter, is well, when did20A. North Chicago.				
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19 A. Yes. 19 Chicago? 20 Q. And thereafter, is well, when did 20 A. North Chicago.				
20 Q. And thereafter, is well, when did 20 A. North Chicago.		•		,
				<u> </u>
121 you complete that program?				
	21	you complete that program?	21	Q. North Chicago. I'm from the West.
22 A. In 1971. 22 Is that correct?	22	A. In 19/1.	22	Is that correct?

5 (Pages 14 to 17)

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Page 26 Page 28 MR. SOFFER: You may answer if you can. the context of Medicare and Medicaid? 1 2 THE WITNESS: I was primarily 2 A. There were DRGs. 3 responsible to assist line management in the Q. DRG stands for? identification of causes of cost variances versus 4 A. Diagnosis related codes -- diagnosis 4 5 5 related groups. BY MR. SISNEROS: 6 Q. Well, what products or services were 6 Q. Okay. All right, then from Hospital --7 you setting Medicaid/Medicare prices for? 7 8 then from FP & A at the Hospital Products 8 MS. TABACCHI: Object to the form. 9 Division, you became Division Controller For 9 MR. SOFFER: If you're able to answer, 10 Corporate Materials Management in 1982; is that 10 you may. right? 11 THE WITNESS: We were in the total 11 12 A. Yes, sir. 12 parental nutrition business, the total enteral 13 13 nutrition business, and the renal care business. Q. Okay, what is that? 14 14 BY MR. SISNEROS: A. Corporate Materials Management was a 15 service division that distributed -- let me back 15 Q. These are products and services that 16 up -- operated distribution centers and trucks to 16 involve infusion therapies; is that right? 17 move product from plants to distribution centers 17 MS. TABACCHI: Object to the form. and from distribution centers to major customers. THE WITNESS: Some of these project --18 18 19 Q. And what was your responsibility? 19 well --20 A. I was again responsible for the 20 MR. SOFFER: You can answer. accuracy and the integrity of the books for that 21 THE WITNESS: Some of these products 21 22 division. 22 are injected in human beings, and some of them Page 27 Page 29 1 Q. Okay. And then from there, you got are fed orally to human beings. promoted to Division Controller - Home Care in 2 BY MR. SISNEROS: '83, correct? 3 3 Q. When you would -- what did you call 4 A. Yes. sir. 4 that, DRGs? I'm sorry, DRGs? 5 5 Q. Were your duties functionally the same A. Right. as they had been at the Corporate Materials Q. When you said pricing -- well, can you 6 6 7 Management? explain to me how you would set a pricing through 8 8 MS. TABACCHI: Object to the form. the DRGs? 9 MR. SOFFER: You may answer if you can. 9 MS. TABACCHI: Object to the form. 10 MR. SOFFER: You can answer if you're 10 BY MR. SISNEROS: Q. All right, let me just ask it this way. 11 11 able. 12 What were your duties as Division Controller At 12 THE WITNESS: Abbott was a late entrant 13 Home Care? 13 in this market, and there were lots of 14 A. I was responsible for, again, 14 competitive pricing available. 15 maintaining the integrity and accuracy of the 15 We were setting the product for the books for that division and for establishing the individual components that went into a therapy. 16 16 pricing for our products when we billed Medicare, 17 Like if you were on home enteral nutrition, you 17 18 Medicaid and private insurance companies. 18 would take a product like Ensure, you would need Q. How did you do that? 19 19 a tube and other ancillary supplies. We set the MS. TABACCHI: Object to the form. 20 prices for those individual supplies that went 20 21 BY MR. SISNEROS: 21 within a diagnosis group. 22 Q. How -- how would you price products in 22 BY MR. SISNEROS:

8 (Pages 26 to 29)

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	Page 30		Page 32
1	Q. I see. You you weren't responsible	1	A. I would have worked with the division
2	for for a pharmaceutical product. You were	2	controller.
3	responsible for equipment?	3	Q. Do you recall who that would have been?
4	A. We sold no pharmaceutical products.	4	A. No.
5	Q. You sold equipment?	5	Q. Can you give me an example of what you
6	A. Yes.	6	would have been reviewing with a representative
7	Q. Okay. All right, then from there, you	7	from the Hospital Products Division?
8	went to, again, Assistant Corporate Controller -	8	MS. TABACCHI: Object to the form.
9	FP & A?	9	THE WITNESS: It could be as simple as
10	A. Right, correct.	10	the wage the annual merit wage increase they
11	Q. And your duties there?	11	built in, the annual wage progression they built
12	A. Abbott has a budget cycle three times a	12	in to could.
13	year, and all the groups submit budgets. My job	13	BY MR. SISNEROS:
14	was to help line management review, analyze and	14	Q. Well, let me ask you this specific
15	make recommendations.	15	question. Would you would your duties have
16	Q. What specific areas of budgeting did	16	required for a review, for example, of product
17	you review	17	price increases?
18	MS. TABACCHI: Object to the form.	18	A. No.
19	BY MR. SISNEROS:	19	Q. Was there anyone in the controller's
20	Q. (Continuing) as Assistant Corporate	20	office who would have been responsible for that
21	Controller of FP & A?	21	type of review?
22	MR. HOFFMAN: You can answer.	22	MS. TABACCHI: Object to form.
	Page 31		Page 33
1	THE WITNESS: Every division and every	1	THE WITNESS: At the corporate level?
2	corporate staff function submitted a budget, a	2	BY MR. SISNEROS:
3	budget yeah, submitted a budget.	3	Q. Yes.
4	BY MR. SISNEROS:	4	A. No.
5	Q. So you reviewed all aspects of the	5	Q. At the divisional level?
6	business for every division?	6	MS. TABACCHI: Object to the form.
7	MS. TABACCHI: Object to the form.	7	MR. SOFFER: You can answer if you
8	MR. SOFFER: You can answer if you can.	8	know.
9	THE WITNESS: I assisted line	9	THE WITNESS: Yes.
10	management in that task.	10	BY MR. SISNEROS:
11	BY MR. SISNEROS:	11	Q. And at the divisional level, who had
12	Q. Those that you supervised?	12	responsibility for reviewing price increases?
13	A. No, accounting does not supervise	13	MS. TABACCHI: Object to the form.
14	operating units.	14	THE WITNESS: At that point in time, I
15	Q. Well, this particular position then,	15 16	cannot tell you. I I do not know.
16 17	your duties required that you worked with individuals from the different divisions?	17	BY MR. SISNEROS:
18		18	Q. And, actually, I'm not looking for an individual's name. I'm looking for a position.
19	A. Yes, and corporate management.Q. And corporate management.	19	Who what position in within a
20	Q. And corporate management.A. (Witness nodding.)	20	division would be responsible for reviewing that
21	Q. Did you have a contact in Hospital	21	division's increase a price increase of
22	Products Division?	22	product?
	TIOGGEO DIVIDIOII.		product.

9 (Pages 30 to 33)

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1 office and bring it back. 2 Q. Was that a cost saving? 3 A. A million dollars. 4 Q. What else did you do for them? 5 MS. TABACCHI: Object to the form. 6 BY MR. SISNEROS: 7 Q. Well, what else did you do as Division 8 Vice President of Finance International? 9 A. I was responsible for the accuracy and 10 integrity of the books at the financial books 11 at the division level and each of the hundred 12 affiliates. 1 MS. TABACCHI: Object to the form. 2 MR. SOFFER: You may answer if you of MR. SofFER: You may answer if you o	1	Page 34		Page 36
MR. SOFFER: You can answer if you know the answer to the question. THE WITNESS: You you can Abbott was six companies is six companies. Well, I don't know what it is today. When I was there, it was six companies. You cannot generically say this individual in this division is responsible for that. They're all organized differently. BY MR. SISNEROS: Q. So the responsibility for that duty within that division would would have been identified within the division? A. Yes, sir. Q. And I right. After a stint as Division Vice President - Finance International, you were vour duties there? A. Yes, sir. Q. Was the answer our duties? A. No. Q. All right. After a stint as Division Vice President - Finance International, you were vour duties there? A. The primary duties were product 17 acquisition either through purchase or licensing examples of what you did 20 A. No. 10 Q. Was that a cost saving? A. My first duty was to close the Paris Page 35 office and bring it back. Q. Was that a cost saving? A. A million dollars. Q. Was that a cost saving? A. A million dollars. Q. Was that a cost saving? A. A million dollars. Q. Was that a cost saving? A. A million dollars. Q. Wall, what else did you do as Division Vice President of Finance International? A. Yes, sir. M. No. Q. All right. After a stint as Division Vice President - Finance International? A. Yes, sir. D. Q. Was there your duties there? A. The primary duties were product 17 acquisition either through purchase or licensing examples of what you did 20 A. Um-hum. MR. SOFFER: You may answer if you canter a page and the would fit with the overall Abbott portfolio and to find products at small companies generally that would be licens that would complement Abbott's existing streng in its product portfolio. BY MR. SISNEROS: Q. Wall see that during this period of		MS_TABACCHI: Object to the form	1	BY MR_SISNFROS:
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Q. Okay, are you are you doing any kind 20 universities?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. A million dollars. Q. What else did you do for them? MS. TABACCHI: Object to the form. BY MR. SISNEROS: Q. Well, what else did you do as Division Vice President of Finance International? A. I was responsible for the accuracy and integrity of the books at the financial books at the division level and each of the hundred affiliates. Q. And I see that during this period of time you also became a CPA? A. Yes, sir. Well, I was a CPA before I went to International. Q. I see. That's correct. Are you currently a CPA? A. I am a retired CPA.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	MR. SOFFER: You may answer if you can. THE WITNESS: Okay. I had let's back up. Our job was to analyze business areas we were not in to see if they would fit with the overall Abbott portfolio and to find products at small companies generally that would be licensed that would complement Abbott's existing strengths in its product portfolio. BY MR. SISNEROS: Q. You were looking to license products developed by others? A. Yes, sir. Q. Would that include looking for products that had been patented by other companies? A. Yes. Q. Would it include products that had been patented by other institutions, say,
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Page 38 Page 40 couple of years? - as Division Vice President - Corporate Planning 2 A. Yes. 2 get involved in the licensing of a product that had not been manufactured by Abbott? 3 Q. In your -- in this position, about how many products did you license from other 4 A. Yes. 4 5 5 institutions? MS. TABACCHI: Object to the form. MS. TABACCHI: Object to the form. 6 BY MR. SISNEROS: 6 7 THE WITNESS: Other institutions? 7 Q. Could you give me some examples? BY MR. SISNEROS: 8 A. Yeah. 8 9 Q. Universities, other companies. 9 Q. Please for the record give me some 10 A. Oh. 10 examples. MS. TABACCHI: Object to the form. 11 11 A. There was a product called Synagis marketed by Ross Division, which was -- which is, 12 BY MR. SISNEROS: 12 Q. Let me -- let me rephrase the question. I assume -- I don't know about -- it's -- the 13 13 14 You've testified that as part of your 14 manufacturer's Medimmune. 15 duties, you were looking for a product that may 15 Q. Okay, there were others? have been patented by another company or other 16 A. Oh, yeah. 16 17 institutions like a university, correct? 17 Q. All right. And so my question is with 18 respect to your duties at this time as Division 18 A. Um-hum. 19 Q. Yes? 19 Vice President of Corporate Planning, you were 20 A. Yes. 20 concerned with budgets for acquiring product from other companies or institutions and licensing Q. And my question is, to your best of 21 21 your recollections, how many products did you 22 them through Abbott; is that accurate? Page 41 Page 39 1 license for Abbott --MS. TABACCHI: Object to the form. 2 MS. TABACCHI: Object to the form. 2 THE WITNESS: I would say that we were 3 BY MR. SISNEROS: 3 concerned with licensing products, not budgets. 4 Q. (Continuing) -- from other 4 Our job was to identify and to assist the 5 5 divisions in licensing or acquiring products. We institutions? 6 MS. TABACCHI: Object to the form. 6 did not have the budgets. 7 7 MR. SOFFER: If you're able, you may BY MR. SISNEROS: 8 Q. Was cost a consideration in that 8 answer. 9 THE WITNESS: Well, let me -- let me 9 process of acquiring those products that you rephrase, okay? 10 would license? 10 We would identify a product either with 11 MS. TABACCHI: Object to the form. 11 12 or without a division. Corporate does not market 12 THE WITNESS: Every -- every product -- I guess -- corporate really doesn't market 13 had a P & L prepared for it. BY MR. SISNEROS: products. Divisions sell products at Abbott. So 14 -- can I give a real example? 15 15 O. What's --MR. SOFFER: Why don't we have the A. A profit and loss statement when you 16 16 question asked again. 17 had -- when you went to license it. 17 18 BY MR. SISNEROS: 18 Q. All right, thereafter, you went to --Q. Well, look, let me ask this. by the way, when you were Division Vice President 19 19 MR. SOFFER: Go ahead. of Corporate Planning, who was your immediate 20 20 21 BY MR. SISNEROS: 21 supervisor? Q. Did Abbott -- did you at this time at -22 22 A. During the period of time I was there,

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1	this memo identifying points to be discussed at	1	deposition.
2	the next or, rather, strike that.	2	Could you please review that?
3	He is identifying matters that members	3	A. (Witness reviewing document.)
4	want to discuss at the next Medicare Working	4	Q. Have you had a chance to review it?
5	Group meeting, correct?	5	A. Yes.
6	MS. TABACCHI: Object to the form.	6	Q. Mr. Miller, that is an undated copy of
7	THE WITNESS: That's as stated.	7	handwritten notes on what appears to be a pad
8	BY MR. SISNEROS:	8	"From the desk of James E. Miller." Do you see
9	Q. And one of the bullet points that he	9	that?
10	brings up is they someone wants "to discuss	10	A. Correct.
11	average wholesale price versus actual cost	11	Q. Is that is that you?
12	issue."	12	A. That's me.
13	Do you see that?	13	Q. And is that your handwriting?
14	A. That is what's stated.	14	A. That is my handwriting.
15	Q. Do you know what is meant by "average	15	Q. Could you please who is it addressed
16	wholesale price"?	16	to?
17	A. Do'I know what's no.	17	A. Rich Rieger.
18	Q. You do not know? You never heard that	18	Q. And and could you please read into
19	term before?	19	the record what you what is you've written
20	A. I've read the term.	20	down in this handwritten message?
21	MS. TABACCHI: Object to the form.	21	A. "Medicare allowable equals AWP.
22	BY MR. SISNEROS:	22	Medicare pays physician 80% of Medicare
	Page 99		Page 101
1	Q. You've read the term?	1	allowable. AWP's equals acquisition cost plus 20
2	A. (Witness nodding.)	2	to 25%."
3	Q. What do you mean you've read the term?	3	Q. And going to that first line where you
4	A. It's in newspapers, it's in magazines.	4	wrote, "Medicare allowable equals AWP," do you
5	It's a common term.	5	mean by that that is the amount that
6	Q. You have no idea how it's defined?	6	Medicare pays or reimburses a provider?
7	A. I've never been responsible for its	7	MS. TABACCHI: Object to the form.
8	calculation or setting.	8	THE WITNESS: I have no idea what this
9	Q. Well, no, I understand that. My	9	buck slip was in relationship to.
10	question is do you know what it is?	10	BY MR. SISNEROS:
11	MS. TABACCHI: Object to the form.	11	Q. Well, okay, but that wasn't my question
12	THE WITNESS: No.	12	if what you wrote down was in what you wrote
13	In 52706, there is a definition.	13	down was in relationship to. But my question was
14	MR. SISNEROS: We'll get to that in a	14	"Medicare allowable," what does that mean to you?
15	minute.	15	A. It says, "Medicare allowable equals
16	THE WITNESS: Okay, fine.	16	AWP."
17	(Exhibit Miller 1165 was marked	17	Q. And this note, it was it was
18	for ID)	18	directed at Mr. Rieger, who you supervised; is
19	BY MR. SISNEROS:	19	that correct?
エン		20	A. That is correct.
20	Q. All right, I am handing to you for your	20	A. That is correct.
	Q. All right, I am handing to you for your review what I've what's been marked and	21	Q. Is it fair to say that this was
20			

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Page 106 Page 108 THE WITNESS: Yes. 1 memo. 2 A. Oh, okay fine. 2 BY MR. SISNEROS: 3 Q. Let's go to that paragraph --3 Q. And if you could review at the top of 4 A. Okay. 4 52810, one of the articles attached by Mr. Rieger 5 Q. -- the last paragraph of ABT 52808. 5 to his memo, the -- basically what would be the In there, Mr. Rieger is telling the second paragraph starting with, "Health News 6 6 Daily via Individual, Inc." Do you see that, the 7 Medicare Working Group that he is attaching two 7 8 documents, one relating to AWP, and an article 8 beginning of that paragraph? A. Yes, sir. 9 relating to President Clinton's '98 budget 9 10 proposal; is that right? 10 Q. And it's an introduction paragraph. Do 11 A. That's what it says. you see where they are basically summarizing 11 Q. Okay, and if Mr. -- and earlier, I'd 12 12 that, "The new Medicare outpatient drug coverage asked you if -- in the normal course of business be based on actual cost rather than AWP." Do you 13 13 14 if Mr. Rieger sent out a memo such as this to the 14 see -- do you see what that mem -- see that? 15 Working Group, including you, you know, would you 15 A. Yes, sir. 16 normally have received it, and I believe you 16 Q. Okay, earlier in your testimony, -said, "Yes." Is that right? 17 17 well, strike that. A. That is correct. 18 18 Now, if you go back to ABT 5808, the 19 Q. And if he had attached -- if he had 19 beginning of Mr. Rieger's January 15th, 1997 20 attachments to his memo, would you normally have 20 memo, and look at the first bullet point there, reviewed them? 21 21 "Discussed average wholesale price versus actual 22 A. It depends on how voluminous they were. 22 cost issue," do you see that? Page 107 Page 109 1 Q. I know what you mean. But do you 1 A. Yes. sir. believe that -- if you turn over to Page 52810 --2 Q. Do you believe that "actual cost" point raised in that bullet may reference President 3 A. 52810. 3 Q. -- which sequentially follows the end 4 Clinton's proposal that reimbursement of 5 of his memo, 52809. That's the end of Mr. 5 outpatient drugs be based on actual cost rather Rieger's memo, and then the attachment is 52810. 6 than AWP? 6 7 7 Do you see that? MS. TABACCHI: Object to the form. THE WITNESS: I do not know. 8 A. Yes. 8 9 9 BY MR. SISNEROS: Q. And they're talking about "President Clinton's expected proposed Medicare outpatient 10 10 Q. Does reviewing the article in any way drug coverage." Do you see that? 11 refresh your recollection about the actual cost 11 12 A. Yes. 12 issue? 13 Q. Okay, and if you look at -- just look 13 A. I would have read this and said, 14 to the next page, that particular article ends at 14 "Actual cost would never be approved." 52811. Do you see that? 15 Q. Why would you say that? 15 A. I spent nine years in manufacturing 16 A. Yes. 16 17 Q. All right, with -- with respect to the accounting. You can get 40 cost accountants on 17 18 two-page article, it would -- the attached 18 the head of a pin, and they will never agree on 19 article would have been only two pages. Was it 19 actual cost. your normal practice to review small articles 20 Q. Because each one of them would have a 21 such as that? 21 different definition for --22 22 A. Yes. sir. MS. TABACCHI: Object to the form.

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